

4-09-00312-CR

CERTIFICATE TO BE FILED WITH NOTICE OF APPEAL IN COURT OF APPEALS

FILED
IN THE COURT OF APPEALS
AT SAN ANTONIO, TEXAS

TRIAL COURT NO.

2006-CRO-452-B3
2006-CRO-452-B3/14

2009 MAY 26 PM 5:28

THE STATE OF TEXAS

IN THE COURT

vs.

Artemio Gonzalo Lopez

OF

Webb

COUNTY, TEXAS

Keith E. Hottle
CLERK

The records of my office show that:

- Has counsel for defendant filed a motion for new trial?
Yes _____, if so, date filed _____ No ☒
- The defendant named above was convicted in this court of the offense
of Attempted Capital Murder - F11
- The Honorable Judge Elma Salinas Ender presided at the trial.
- The State was represented by Edward Castillo/ Jesse Challen
at the trial.
The State is represented by Edward Castillo/ Jesse Challen
1110 Victoria, Ste. 401 (name) (956) 523-4900
(address) (phone #) (Bar I.D. #)
on appeal.
- Defendant was represented by Fausto Sosa
at the trial.
Defendant is represented by Fausto Sosa
101 East Ullside Rd, Suite 11C (name) (956) 727-4477
(address) (phone #) (Bar I.D. #)
on appeal.
- Defendant's counsel on appeal: Retained _____ Appointed ☒ Pro Se _____
- The trial was before the Court:
Without a Jury _____ A Jury on both guilt and punishment ☒
A Jury on punishment only _____ A Jury on guilt only _____
- The sentence was imposed/suspended on December 13, 2009 (date)
for (length of time) Life
Repeater/Habitual (circle one if appropriate)
- The date the Notice of Appeal was filed May 26, 2009
- Defendant Is in Jail ☒ or Is Free on Bond of \$ _____
- The name and address of the court reporter who reported the evidence
is: Ana Montan, P.O. Box 1598, Laredo, TX 78042
- If two or more cases were tried together, the other cases that have been
or may be appealed are: (docket number & defendant's name)

WITNESS MY HAND this the

26th

May

, 2009

COURT REPORTER

HERB SCHAEFER, CLERK

BY:

DEPUTY

DATE



Clerk of the

Court

Webb

County, Texas

DEPUTY

Out-of-Appeal-
Granted by
CCA on 5-6-09;
CCA issued
Mandate
on _____
due to be
issued
on 6-1-09

No. ⁶2007-CRO-000452-D-3

THE STATE OF TEXAS

§

IN THE DISTRICT COURT

V.

§

341TH JUDICIAL DISTRICT

ARTEMIO GONZALO LOPEZ

§

WEBB COUNTY, TEXAS

COPY

NOTICE OF APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now ARTEMIO GONZALO LOPEZ, Defendant in the above-styled and numbered cause, and files his Notice of Appeal from the conviction and sentence in this cause. The Defendant was sentenced on December 13, 2007. The Court of Criminal Appeals GRANTED Defendant's Writ to file an out of time appeal on May 6, 2009.


ANGELA J. MOORE
Chief Public Defender


DEBORAH LETZ

Bar No. 24035554
Assistant Public Defender
Bexar County Public Defender's Office
410 South Main, Suite 214
San Antonio, Texas 78204
(210) 335-0701
Fax: (210) 335-0707
Counsel for Appellant

FILED BY FAX
2009 MAY 26 PM 2:55

FILED
WEBB COUNTY, TEXAS
DEPUTY

BY 
KEITH E. HOOTLE, CLERK
2009 MAY 26 PM 5:28
IN THE COURT OF APPEALS
AT SAN ANTONIO, TEXAS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Appeal has been served on the Webb County District Attorney's Office, 300 Dolorosa St., 4th Floor, San Antonio, Texas 78205 Webb County District Attorney's Office, Appellate Division, 1110 Victoria, Suite 401, Laredo, Texas 78042, on May 22, 2009.

A handwritten signature in dark ink, appearing to read 'Deborah Letz', is written over a horizontal line.

DEBORAH LETZ
ATTORNEY FOR APPELLANT

FILED
IN THE COURT OF APPEALS
AT SAN ANTONIO, TEXAS
2009 MAY 26 PM 5:28

Keith E. Hottel
KEITH E. HOTTEL, CLERK

Cause No. 2006 (CRO00452-D3)TRN NONE

THE STATE OF TEXAS
v.
ARTEMIO GONZALO
LOPEZ, DEFENDANT
SID: TX04155217

§ IN THE 341ST JUDICIAL
§ DISTRICT COURT OF
§ WEBB COUNTY, TEXAS

2008 JAN -7 AM 11:28

COPY JUDGMENT OF CONVICTION BY JURY
SENTENCE BY JURY TO Institutional Division, TDCJ

DATE OF JUDGMENT: DECEMBER 13, 2007
JUDGE PRESIDING: ELMA TERESA SALINAS ENDER
ATTORNEY FOR THE STATE: EDWARD CASTILLO/JESSE GUILLEN
ATTORNEY FOR THE DEFENDANT: FAUSTO SOSA
OFFENSE: ATTEMPTED CAPITAL MURDER
STATUTE FOR OFFENSE: Article 15.01, 19.03, Section , Penal Code
DEGREE OF OFFENSE: First Degree Felony
APPLICABLE PUNISHMENT RANGE
(including enhancements, if any): First Degree 5-99 yrs or life/max \$10,000 fine
DATE OF OFFENSE: MAY 11, 2004
CHARGING INSTRUMENT: Indictment
PLEA TO OFFENSE: Not Guilty
PLEA TO ENHANCEMENT True
PARAGRAPH(S):

And it is further presented in and to said Court that, prior to the commission of the aforesaid offense (hereafter styled the primary offense), on the 6th day of November, 1996 in cause number CR-0386-96-A in the 92nd District Court of Hidalgo County, Texas the defendant was convicted of the felony offense of Aggravated Assault.

And it is further presented in and to said Court that, prior to the commission of the primary offense, and after the conviction in cause number CR-0386-96-A was final, the defendant, committed the felony offense of Capital Murder and was convicted on the 17th day of February, 2006, in cause number CR-2377-05-A in the 92nd District Court of Hidalgo, County, Texas.

<u>VERDICT FOR OFFENSE:</u>	Guilty
<u>FINDING ON ENHANCEMENT:</u>	True
<u>AFFIRMATIVE FINDING ON DEADLY WEAPON:</u>	Yes-deadly weapon used or exhibited
<u>OTHER AFFIRMATIVE SPECIAL FINDINGS:</u>	
<u>DATE SENTENCE IMPOSED:</u>	DECEMBER 13, 2007
<u>PUNISHMENT AND PLACE OF CONFINEMENT:</u>	LIFE years in the Institutional Division-TDCJ, and a \$ 10,000 fine
<u>TIME CREDITED TO SENTENCE:</u>	EIGHTY-SEVEN (87) DAYS CREDIT FOR TIME SERVED
<u>COURT COSTS:</u>	\$318.00
<u>TOTAL AMOUNT OF RESTITUTION:</u>	\$Non Applicable
<u>NAME AND ADDRESS FOR RESTITUTION:</u>	Non Applicable

The Sex Offender Registration Requirements under Chapter 62, CCP, do not apply to the Defendant. The age of the victim at the time of the offense was not applicable.

This sentence shall run **concurrently unless otherwise specified.**

On the date stated above, the above numbered and entitled cause was regularly reached and called for trial, and the State appeared by the attorney stated above, and the Defendant and the Defendant's attorney, as stated above, were also present. Thereupon both sides announced ready for trial, and the Defendant pleaded **not guilty** and a jury, to wit: **Dino Smith**, and eleven others, was duly selected, impaneled and sworn. Having heard the evidence submitted and having been duly charged by the Court, the jury retired to consider their verdict. Afterward, being brought into open court by the proper officer, the Defendant, the Defendant's attorney, and the State's attorney being present, and being asked if the jury had agreed upon a verdict, the jury answered it had and returned to the Court a verdict, which was read aloud, received by the Court, and is now entered upon the Minutes of the Court as follows:

We, the Jury find the defendant, ARTEMIO GONZALO LOPEZ, Guilty of the offense of Attempted Capital Murder, as charged in the indictment.

/S/ DINO SMITH

Presiding Juror

Thereupon, the Defendant having previously elected to have the punishment assessed by the jury, pleaded to the enhancement paragraphs, if any, as stated above, and the jury was called back into the box and heard evidence related to the question of punishment. Thereafter, the jury retired to consider such question and, after having deliberated, the jury was brought back into open court by the proper officer, the Defendant, the Defendant's attorney, and the State's attorney being present, and being asked if the jury had agreed upon a verdict, the jury answered it had and returned to the Court a verdict, which was read aloud, received by the Court, and is now entered upon the Minutes of the Court as follows:

We, the Jury, having found the defendant guilty of Attempted Capital Murder, do further find beyond a reasonable doubt that the allegations in Enhancement Paragraph One are "True"; We, the Jury, assess h is punishment at confinement in the Institutional Division of the Texas Department of Criminal Justice for LIFE and, we, the Jury further assess a fine of \$10,000.

/S/ DINO SMITH

Presiding Juror

A presentence investigation report **was done according to Article 42.12, sec. 9, CCP.**

And thereupon the Court asked the Defendant whether the Defendant had anything to say why said sentence should not be pronounced upon said Defendant, and the Defendant answered nothing in bar thereof. Whereupon the Court proceeded to pronounce sentence upon said Defendant as stated above.

It is therefore ORDERED, ADJUDGED and DECREED by the Court that the defendant is guilty of the offense stated above, the punishment is fixed as stated above, and the State of Texas do have and recover of said defendant all court costs in this prosecution expended, for which execution will issue.

It is ORDERED by the Court that the Defendant be taken by the authorized agent of the State of Texas or by the Sheriff of this county and be safely conveyed and delivered to the **Director, Institutional Division-TDCJ**, there to be confined in the manner and for the period aforesaid, and the said defendant is hereby remanded to the custody of the Sheriff of this county until such time as the Sheriff can obey the directions of this sentence.

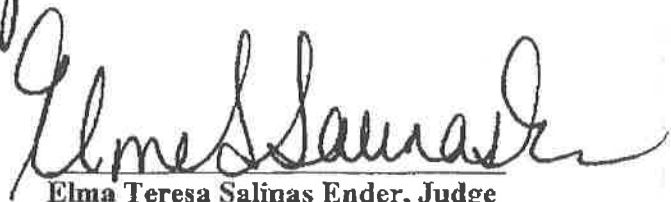
The defendant is given credit as stated above on this sentence for the time spent in county jail. The Defendant also is ordered to pay restitution to the person(s) named above in the amount specified above

Furthermore, the following special findings or orders apply:

Pursuant to article 42.12, Section 3g, Code of Criminal Procedure & HB156 (77R) the court affirmatively finds that the Defendant used or exhibit a deadly weapon, namely, firearm, during the commission of a felony offense or during immediate flight therefrom or was a party to the offense and knew that a deadly weapon would be used or exhibited.

The court orders that the sentence in this conviction shall run consecutively with case No. CR-2377-05-A in the 92th District Court of Hidalgo County, Texas.

Signed on the 7th day of January, 2007



Elma Teresa Salinas Ender, Judge
341st Judicial District Court
Webb County, Texas

A True copy of the original, I certify,
the 20th day of May, 2004
MANUEL GUTIERREZ
Clerk of the District Courts and
County Court at Law, Webb County, Texas
By: Manuel Gutierrez Deputy



Cause No. 2006CRO459-13

The State of Texas

§

In the District Court

vs.

§

341st Judicial District

Artenio Gonzalo Lopez

§

Webb County, Texas

EXHIBIT "A"(To Judgment in Above Styled and Numbered Cause)

I am the Defendant in the above and described cause. My fingerprints were taken by the Bailiff and/or Sergeant at Arms in the presence of the Deputy District Clerk.

Artenio G. Lopez
 DEFENDANT - ACUSADO

I hereby certify that in accordance with Art. 38.22 of the Texas Code of Criminal Procedure that I caused the Defendant, _____, to place his/her fingerprints in the space provided below.

3115
 Bailiff and/or Sergeant at Arms

SWORN AND SUBSCRIBED BEFORE ME, came on the day the Defendant, _____, in this cause. I further certify that the fingerprints of the Defendant were taken by the Bailiff and/or Sergeant at Arms in my presence.

Marcia L. Jell
 Deputy District Clerk
 Webb County, Texas

RIGHT HAND - MANO DERECHA



THUMB

INDEX

MIDDLE

RING

LITTLE

LEFT HAND - MANO IZQUIERDA



THUMB

INDEX

MIDDLE

RING

LITTLE

"Filing by FAX"

FILED
IN THE COURT OF APPEALS
AT SAN ANTONIO, TEXAS
2009 MAY 26 PM 5:28

Webb



County

**DISTRICT COURTS &
COUNTY COURTS AT LAW**

MANUEL GUTIERREZ / DISTRICT CLERK

P.O. Box 667 / LAREDO, TEXAS 78042-0667

AREA CODE 956/523-4268

FAX No. 956/523-5063

4-09-00312-CR

Keith E. Hottle
KEITH E. HOTTLE, CLERK

FAX COVER SHEET

TO: Diana / John (Criminal Appeals)

FROM: MARY ULLA

DATE: 5/26/09

TIME: 4:56 PM

NUMBER OF PAGES (INCLUDING THIS COVER SHEET)

9

FAX NUMBER: (210) 335-2762

COMMENTS:

Notice of Appeal - Artemio Gonzalo Lopez
2006 CRO 45223



00312-CR

**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. AP-76,148

EX PARTE ARTEMIO GONZALO LOPEZ, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2006CR0452-D3(A) IN THE 341ST DISTRICT COURT
FROM WEBB COUNTY**

Per curiam.

COPY

OPINION

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of attempted capital murder and sentenced to life imprisonment.

Applicant contends that his counsel rendered ineffective assistance because he failed to timely file a notice of appeal. We remanded this application to the trial court for findings of fact and conclusions of law.

The trial court has determined that trial counsel failed to timely file a notice of appeal. We

FILED
WEBB COUNTY, TEXAS
BY *[Signature]*
DEPUTY CLERK

2009 MAY 13 AM 9:46

MANUEL GUTIERREZ
CLERK OF THE DISTRICT COURT

find, therefore, that Applicant is entitled to the opportunity to file an out-of-time appeal of the judgment of conviction in Cause No. 2006CR0452-D3(A) from the 341st Judicial District Court of Webb County. Applicant is ordered returned to that time at which he may give a written notice of appeal so that he may then, with the aid of counsel, obtain a meaningful appeal. All time limits shall be calculated as if the sentence had been imposed on the date on which the mandate of this Court issues. We hold that, should Applicant desire to prosecute an appeal, he must take affirmative steps to file a written notice of appeal in the trial court within 30 days after the mandate of this Court issues.

Delivered: May 6, 2009
Do Not Publish

4-09-00312-CR

Webb



County

DISTRICT COURTS &
COUNTY COURTS AT LAW

MANUEL GUTIERREZ / DISTRICT CLERK

P.O. Box 667 / LAREDO, TEXAS 78042-0667
AREA CODE 956 / 523-4268
FAX No. 956 / 523-5063

FAX COVER SHEET

TO: Diana / (Criminal Appeals)

FROM: Mindy Villa

DATE: 5/27/09

TIME: 10 AM

NUMBER OF PAGES (INCLUDING THIS COVER SHEET)

3

FAX NUMBER:

(210) 335-2762

COMMENTS:

Opinion - 2006 CR0 452 D3

Trial Certification Pending.